

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-080204
	:	TRIAL NO. B-0708217
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
	:	
MICHAEL CARROLL,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Michael Carroll shot and killed Casey Strotman. He was charged with reckless homicide with a gun specification and tampering with evidence. Carroll moved to suppress evidence—the trial court overruled his motion. Carroll then pleaded guilty to reckless homicide with a gun specification. The trial court sentenced him to five years in prison for the reckless homicide and three years in prison for the gun specification, for a total of eight years.

Carroll now appeals, asserting that the trial court erred by (1) not granting his motion to suppress; (2) denying Carroll due process due to ineffective assistance of counsel; and (3) imposing a sentence contrary to law.

Carroll argues that the court abused its discretion by refusing to grant his motion to suppress. But Carroll pleaded guilty. His plea waived all prior errors except for subject-matter jurisdiction.²

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² *State v. Elliott* (1993), 86 Ohio App.3d 792, 795, 621 N.E.2d 1272.

Next, Carroll argues that his trial attorneys provided ineffective assistance because his attorneys did not advise him to plead no contest instead of guilty. For Carroll to get a new trial because of ineffective assistance of counsel, he would have to show that his attorneys' performance fell below an objective standard of reasonable representation and that, but for the attorneys' performance, a reasonable probability exists that Carroll would have been found not guilty.³

Carroll does not get past the first part of the test. We decline to make a per se rule that attorneys who fail to advise their clients to plead no contest after a motion to suppress is denied are ineffective.

Finally, Carroll contends that his sentence was contrary to law. Not so. Trial courts have the discretion to impose a sentence of any length within the statutory range. Carroll's sentence was within the statutory range.⁴

Therefore, we affirm the trial court's judgment.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

SUNDERMANN, P.J., PAINTER and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on November 26, 2008

per order of the Court _____
Presiding Judge

³ *Strickland v. Washington* (1984), 466 U.S. 668, 692, 104 S.Ct. 2052.

⁴ *State v Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470, paragraph seven of the syllabus.